

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA
CENTRAL DIVISION

UNITED STATES OF AMERICA,)	
)	Criminal No. 4:11-cr-017
Plaintiff,)	
)	
vs.)	
)	MOTION TO DISMISS
JEFFREY SCOTT KEPLER,)	
)	
Defendant.)	
)	

Defendant, Jeffrey Scott Kepler, through counsel, moves pursuant to Fed.R.Crim.P. 12(b)(2) to dismiss the indictment against him. In support of this motion, defendant states as follows:

1. Mr. Kepler has been charged with violations of 18 U.S.C. §§ 1347 and 2 (Health Care Fraud), 18 U.S.C. §§ 704(b) and (d) (Stolen Valor) and 18 U.S.C. § 1001(a)(2) (False Statements).

2. On its face, 18 U.S.C. § 704 (count 2) violates Mr. Kepler's First Amendment right of Free Speech.

WHEREFORE, defendant Jeffrey Scott Kepler respectfully requests that the court set this matter for hearing, and, after that hearing, grant this motion and dismiss count 2 of the indictment.

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cc:

Craig Gaumer
United States Attorney's Office

ATTORNEY FOR PLAINTIFF,
UNITED STATES OF AMERICA

CERTIFICATE OF SERVICE
I hereby certify that on April 11, 2011, I electronically
filed this document with the Clerk of Court using the
ECF system which will serve it on the appropriate
parties.

/s/ B. John Burns
John Burns